

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**HB 1053 - SB 1065**

March 24, 2011

**SUMMARY OF BILL:** Adds the following new standards governing audits of pharmacies by pharmacy benefit managers: a pharmacist is authorized to use any legal prescription to validate claims submitted; certain privacy measures must be met by an auditor working at a pharmacy; recoupment of dispensing fees is prohibited; sharing information gathered from a provider and utilizing it for another plan is prohibited; the amount of allowable recoupment for the administration of more of a drug that is permitted by the policy limits must be calculated based on the actual excess and the cost of the drug as it was submitted in the original claim and it may not include the dispensing fee; in determining the amount to be dispensed, the day's supply must be calculated based on the highest dose prescribed; and compensation of an auditor may not be determined based on a percentage of the demanded recoupment amount.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – Restrictions imposed by the proposed rules will result in an annual loss in reimbursements of approximately \$26,000 in state funds and \$32,200 in federal funds from the inability to collect all dispensing fees that are currently recovered.**

**Assumptions:**

- The Department of Commerce and Insurance will be responsible for the administration and enforcement of the provisions of this bill. Any cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- According to the Department of Finance and Administration, the proposed legislation will result in a loss of \$30,000 annually in dispensing fees that will not be recovered through an audit process. Out of the \$30,000, \$16,500 will be state funds and \$13,500 will be federal funds. This loss will not impact premiums and employer contributions for employee participation in the State Employee, Local Government, and Local Education Health Plans.
- According to the Bureau of TennCare, restrictions imposed by the proposed legislation will result in the loss of \$28,216 annually in recoupment claims that were missing exact usage directions or dispensing fees from incorrectly billed claims. Out of this, \$9,528 will be state funds and \$18,688 will be federal funds at a 66.23 percent match rate. The loss will not impact premiums for participation in the TennCare plan.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

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